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ABSTRACT

Issues connected with copyright and the copying of published print materials are discussed in question and answer form for teachers in Alberta (Canada) schools. Twenty-five questions are answered. The Copyright Act gives the copyright owner, usually the author or publisher, the sole right to copy or permit someone to copy his or her work. It also provides for the creation of licensing bodies, such as the Canadian Reprography Collective (CANCOPY), to represent authors and publishers and license the copying of copyrighted materials. The license with CANCOPY allows a teacher to copy most of the print material needed for classes. CANCOPY uses the fees paid for licenses to reimburse authors and publishers for copying of their material. Materials in the public domain and those for which the copyright holder has granted copying permission to teachers do not require licensing. Conditions under which a license is necessary are reviewed, along with limitations on copying under CANCOPY provisions. (SLD)

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Information about the print licence with CANCOPY

September 1, 1992

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COPYRIGHT IN ALBERTA SCHOOLS

1. How does the Copyright Act affect teachers?

The Copyright Act gives the copyright owner - usually an author or a publisher - the sole right to copy or permit someone else to copy his or her work. It also provides for the creation of licensing bodies, such as the Canadian Reprography Collective (CANCOPY), to represent authors and publishers and license the copying of copyright materials.

2. Why is a Licence with CANCOPY necessary?

Much of the copying that teachers may want to do for their classes is not permitted by the Copyright Act. The Licence with CANCOPY allows you to copy most of the print material needed for your classes. CANCOPY will use the fee paid for the Licence to reimburse authors and publishers for the copying of their material.

3. Can a teacher do any copying of print material without being licensed?

Some creators of print material which is protected by copyright give permission to copy for non-profit, educational purposes. Thomson Newspapers have given teachers in Alberta permission to copy from all their newspapers, including the Globe and Mail and the Lethbridge Herald. Many Alberta Government publications also permit copying. Check the copyright page of a publication for explicit permission.

Other published materials are in the public domain, usually when the author has been dead for 50 years. No permission is needed to copy materials which are no longer protected by copyright.

The types of copying described above do not require licensing. There are also sections of the Copyright Act which may provide limited exceptions or defences in respect to copying which would otherwise infringe copyright. However, where there is a Licence with CANCOPY it is not necessary for teachers to worry about what is and what is not protected by copyright, provided they comply with the restrictions on copying under the Licence.

4. How long will the Licence with CANCOPY be in effect?

This first Licence between CANCOPY and the Minister of Education on behalf of all schools in Alberta which have indicated their participation in the Licence, covers copying for the period September 1, 1992 through August 31, 1993. At the end of this time it may be renewed for subsequent three-month terms. It is expected that a new agreement will be negotiated sometime before the first Licence expires.

5. What may be copied and to what extent?

Copying may be done for any purpose within the mandate of the educational institution, including instructional, recreational, professional, research, archival, administrative, or

communication activities, provided that the copying is not done for profit. The Licence allows the copying of either 10 percent of a published work or any of the following published materials (whichever is greater):

a) an entire single short story, play, essay, article, poem, or item of print music from a book or a periodical issue containing other works;
b) an entire newspaper article or page;
c) an entire entry from an encyclopedia, dictionary, annotated bibliography, or similar reference work;
d) an entire reproduction of an artistic work (including drawings, paintings, prints, photographs, and works of sculpture, architecture, or artistic craftsmanship) from a book or periodical issue containing other works; and
e) an entire chapter of a work.

In accordance with good bibliographic practice, all copies must contain a reference to the author, artist or illustrator, and source of the material.

6. How much of a work may be copied if the work is rare or fragile, has missing or damaged pages, or is out of print and the library's copy is damaged or missing?

If a work in the holding of a library is rare or fragile, the entire work may be copied to prevent the further deterioration of the original. If a work belonging to an educational institution has damaged or missing pages, copies may be made to replace these pages so long as an effort has first been made to secure a replacement copy within a reasonable time and at a reasonable price. If an out-of-print work in the holdings of a library is damaged or missing, a single copy may be made to replace the work so long as an effort has first been made to secure a replacement copy within a reasonable time and at a reasonable price. In this instance, CANCOPY must be notified that a copy has been made.

7. How many copies may be made?

One copy may be made for each student, two copies for each teacher, additional copies for administrative purposes (including the communication of information to parents), and a reasonable number of copies for reference in or loan by the library.

8. Is any material not covered by the Licence agreement with CANCOPY?

The Licence agreement covers most of the copying that teachers might do for their classes. There are, however, some categories of material that may not be copied under the terms of the Licence.

The Licence does not authorize the copying of:

a) published work books, published commercially prepared work cards, published assignment sheets, published tests, and published examination papers;
b) other published materials intended to be "consumable",
c) published materials containing commercially valuable proprietary information, such as newsletters with restricted circulation;
d) teachers' guides and manuals;
e) Government of Alberta publications;
f) originals of artistic works, including photographs or prints;
g) photographic negatives or transparencies;
h) print music published for use by choirs, orchestras, bands, and similar ensembles, and by individual performers;
i) publications that contain a notice expressly prohibiting copying under a Licence from a collective or licencing body;
j) unpublished works;
k) any works noted in the Exclusions List.

9. How will teachers know what is on the Exclusions List?

The document entitled Exclusions List will be near copying equipment at schools and school jurisdiction offices. It will be updated regularly so that all teachers will be aware of exactly what materials may not be copied under the terms of the Licence with CANCOPY.

10. Does this mean that none of the works on the Exclusions List may be copied under the terms of the Licence.

Yes. The terms of the Licence do not authorize teachers to photocopy anything on the Exclusions List. Teachers must contact the author or the publisher directly to obtain permission to copy the publications that appear on the Exclusions List.

11. Must teachers also adhere to the British and the American Exclusions Lists?

Yes. Teachers are permitted to copy most British and American material because CANCOPY has entered into agreements with similar collectives in the United Kingdom and the United States.

In obtaining the right to represent foreign authors and publishers, CANCOPY is required to adhere to the Exclusions Lists of other collectives. These lists reflect the agreements which those collectives have with authors and publishers in their own countries and CANCOPY has

incorporated those lists into its own Exclusion List. Therefore, teachers are not authorized to copy works noted in any Exclusions List without the express permission of the copyright owner.

12. Does the Licence permit teachers to copy an entire book over the course of a year?

No. It does not allow systematic, cumulative copying from the same copyright work or material for one course of study or program.

13. May teachers copy a selection of works and bind them into an anthology for their classes?

No. The Licence does not permit the permanent binding by machine of a selection of copied works into an anthology.

14. May teachers enter material into a computer and print out copies for class use?

Yes. However, the material may not be entered into any form of database to which other users, not covered by the Licence, may have access. In addition, the copying guidelines of the Licence apply and teachers may not enter more of the work into a computer than the Licence permits.

15. May French Language materials be copied?

CANCOPY has an agreement with the Quebec Collective, L'Union des ecrivains et ecrivaines quebecois (UNEQ) which permits access to materials in its repertoire.

16. May materials published in other countries be copied?

Since CANCOPY has reciprocal agreements with reprography collectives in other countries, teachers are permitted immediate access to published works in (any language) of the following countries: the United States, France, Spain, Switzerland and Liechtenstein, Germany, Iceland, Norway, Australia, and the United Kingdom.

17. The Licence indicates that "consumable" material is not to be copied. What is consumable material?

A published work is considered to be consumable if the material, after use by one student,

is not fit for the same use by other students. Unless otherwise stated, the authors and publishers of this type of material intend that a copy of the material should be purchased for each student.

18. Why does the Licence permit the copying of print music from a non-music book or other publication but not music for use by choirs, orchestra, bands, and similar ensembles, and by individual performers?

A non-music book or periodical may be copied because it is not being produced and marketed primarily for performers. Print music for use by choirs, orchestras, bands, and similar ensembles, and by individual performers, whether in sheet music or book form, is not covered by the terms of the Licence because it has been expressly forbidden by the copyright owners.

19. What happens if teachers copy beyond the terms of the Licence?

Copying beyond the terms of the Licence is an infringement of copyright and is a breach of the Licence unless the express written permission of CANCOPY or the copyright owner has been received. Teachers copying without such permission may be subject to certain penalties under the law.

20. Does the Licence cover the copying of published works for students who are blind, visually impaired, or otherwise unable to read print because of a disability?

Yes. Published works may be transcribed into audio, Braille, enlarged print and machine-readable formats. They are to be used only by students who are blind, visually impaired, or unable to read normal print because of a disability and by teachers involved in educating these students.

All or any part of a work published in Canada or Australia may be transcribed if the work is not on the Exclusions List. The copies must contain a reference to the author, artist or illustrator, and source of the material. The production of copies may be made for "published work books, published commercially prepared work cards, published assignment sheets, published tests, and published examination papers"; and "other published materials intended to be 'consumable".

21. How does CANCOPY distribute the Licence fees to authors and publishers?

The process by which CANCOPY will distribute royalties to authors and publishers has not been finalized.

22. The Licence indicates that sampling surveys will be performed. What are they, and why are they necessary?

Sampling surveys will help CANCOPY and Alberta Education to determine the nature of the materials being copied and to estimate the total number of copies made under the Licence. The nature of the material and the number of copies will be used in future licence negotiations between CANCOPY and Alberta Education. Because future licence fees will be related to both copying volume and cost per copy, teachers are encouraged to copy judiciously. There could be a substantial increase in the cost of the second year Licence, for example, if the average number of copies made per student goes beyond a range of 15 or 20. The likely amount of any increase is unpredictable since a per copy charge has not yet been negotiated. The results of the sampling will also assist CANCOPY in allocating remuneration to its author and publisher affiliates.

23. Does the Licence cover audiovisual material?

No. It applies only to published print materials. Any copying of audiovisual material, computer software, or any other kind of non-print material without the consent of the copyright owner is prohibited by the Copyright Act.

Audiovisual materials shown in the classroom must carry non-theatrical public performance rights. Videos rented from local video stores carry home use rights only, which do not permit classroom use. Neither is off-air taping of television programs for classroom use permitted unless prior written approval has been granted by the copyright holder of the program.

24. Where can teachers obtain additional information?

All schools and school jurisdiction offices have been sent information posters, the Exclusions List, and a copy of the Licence.

Further questions about the Licence should be directed to the Legislative Services Branch, Alberta Education at 427-2041 or use the government Rite Line.

25. How do I contact CANCOPY for permission to copy beyond the terms of the Licence?

CANCOPY may be contacted by writing or by fax:

Canadian Reprography Collective
214 King Street West, Suite 312
Toronto, Ontario, M5H 3S6
Telephone: (416) 971-5633
Fax: (416) 971-9882